

DOCKETED

DEC 28 1979

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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BALLY MANUFACTURING CORPORATION,)

Plaintiff,)

v.)

CIVIL ACTION NO. 78 C 2246 ✓

D. GOTTLIEB & CO.,)

WILLIAMS ELECTRONICS, INC.)

and)

ROCKWELL INTERNATIONAL CORPORATION)

Defendants.)

and

BALLY MANUFACTURING CORPORATION,)

Plaintiff,)

v.)

CIVIL ACTION NO. 79 C 713 ✓

GAME PLAN, INCORPORATED)

Defendants.)

NOTICE OF DEPOSITION

TO: Gerson E. Meyers, Esq.
Dressler, Goldsmith, Clement,
Gordon & Shore, Ltd.
1800 Prudential Plaza
Chicago, Illinois 60601

John F. Lynch, Esq.
Arnold, White & Durkee
2100 Transco Tower
Houston, Texas 77056

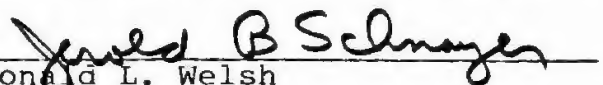
Melvin M. Goldenberg, Esq.
McDougall, Hersh & Scott
135 South LaSalle Street
Suite 1540
Chicago, Illinois 60603

Charles S. Oslakovic, Esq.
Leydig, Voit, Osann,
Mayer & Holt, Ltd.
One IBM Plaza
Room 4600
Chicago, Illinois 60611

PLEASE TAKE NOTICE that at 10:00 a.m. on the 22nd day of January, 1980, at the offices of Fitch, Even & Tabin, 135 South LaSalle Street, Suite 900, Chicago, Illinois, the plaintiff, Bally Manufacturing Corporation, in the above-entitled action will take the deposition of defendant D. Gottlieb & Co., through Tom Defotis and persons designated by Gottlieb under Rule 30 (b) (6) to testify with respect to the operation of solid-state pinball games manufactured and/or sold by D. Gottlieb & Co. and which contain System II control circuits manufactured by Rockwell International Corporation, upon oral examination pursuant to the Federal Rule of Civil Procedure before a Notary Public or other officer authorized by law to administer oaths. The oral examination will continue from day to day until completed. The witnesses and the defendant Gottlieb are requested to bring with them to the deposition all documents and things requested by Plaintiff's First Request for Production of Documents and Things under Rule 34 F.R.C.P. to defendant D. Gottlieb & Co., served December 19, 1978.

You are invited to attend and cross-examine.

BALLY MANUFACTURING CORPORATION


Donald L. Welsh
A. Sidney Katz
Jerold B. Schnayer
Fitch, Even & Tabin
135 South LaSalle Street
Chicago, Illinois 60603
(312) 372-7842

December 26, 1979

Attorneys for Plaintiff

TO CLIENT
RECEIVED.....

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DEC 20 1978

H. Stuart Cunningham, Clerk
United States District Court

BALLY MANUFACTURING CORPORATION,

Plaintiff,

v.

D. GOTTLIEB & CO., a corporation,
and WILLIAMS ELECTRONICS, INC.,
a corporation,

Defendants.

CIVIL ACTION NO. 78 C 2246

Judge John F. Grady

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS UNDER RULE 34 F.R.C.P.
TO DEFENDANT D. GOTTLIEB & CO.

Pursuant to Rule 34 F.R.C.P. Plaintiff, Bally Manufacturing Corporation (Bally), requests defendant, D. Gottlieb & Co., to respond within 30 days to the following requests:

I. That defendant produce and permit plaintiff to inspect and copy each of the following documents:

1. All documents which refer to any and all solid-state electronic pinball machines made or sold by Bally.

2. All documents which refer to any and all solid-state electronic pinball machines made or sold by any one other than the defendant and Bally.

3. All documents which refer to or relate to the design or development of any and all solid-state electronic pinball machines constructed, made or sold by the defendant.

4. All documents which refer to or relate to any and all attempts by defendant to design or develop any and all solid-state electronic pinball machines, whether or not successful.

5. All documents which refer to, relate to, or reflect the reasons for defendant's introduction of a solid-state electronic pinball machine into its product line or the decision for such introduction.

6. All documents which refer to, relate to, or reflect the reasons for not introducing a solid-state electronic pinball machine into defendant's product line.

7. All documents which refer to or relate to or reflect defendant's reasons to begin or continue the design, manufacture or sale of pinball machines having an electronic or solid-state control system (as distinguished from an electromechanical system).

8. Separately, for each model of solid-state electronic pinball machines made or sold by defendant, such documents as will disclose the total annual sales in dollars and number of units shipped.

9. All documents which refer to or relate to the preparation, filing, and prosecution of any patent application prepared or proposed for filing, pending or issued, and disclosing subject matter embodied in any solid-state electronic pinball machine made or sold by defendant.

10. A sample of each advertisement, promotional material or sales letter referring or relating to any and all solid-state electronic pinball machines made or sold by defendant.

11. All drawings used in manufacture of any and all solid-state electronic pinball machines made or sold by defendant.

12. All documents including any description concerning the construction or the manner of operation of any and all solid-state electronic pinball machines made or sold by defendant.

13. An operating manual and a service manual for each solid-state electronic pinball machine model made or sold by defendant.

14. All test specifications and test reports on any and all solid-state electronic pinball machines made or sold by defendant.

15. All market surveys, market reports or customer surveys on or involving solid-state electronic pinball machines.

16. All documents including any statement relating to the structure, operation, performance or marketability of any and all electronic pinball machines.

17. All documents relating to agreements and negotiations with respect thereto between defendant and anyone else concerning:

- (a) any indemnification for liability in connection with the manufacture or sale of solid-state electronic pinball machines.
- (b) the design or development of solid-state electronic pinball machines.
- (c) the manufacture or assembly of solid-state electronic pinball machines.
- (d) the testing of solid-state electronic pinball machines.

18. All documents which refer to the patent rights or potential or prospective patent rights of Bally and authored or prepared by defendant:

- (a) prior to June 6, 1978.
- (b) subsequent to June 6, 1978.

19. All prior art references and other documents on which defendant relies in support of its contentions in its Answer to the Complaint that the patent in suit is invalid.

20. All documents on which defendant relies in support of its contentions in its Answer to the Complaint that the patent in suit is not infringed by defendant.

21. Any and all documents on which defendant relies in support of any contention that plaintiff is not the owner of the patent in suit, or on which defendant relies in contesting plaintiff's title thereto.

22. Any and all documents on which defendant relies in support of its counterclaims against plaintiff in this action.

23. (a) All correspondence between defendant and anyone else concerning the design, development or manufacture of solid-state pinball machines or any electronic component parts thereof.

(b) All notes, memoranda, sketches, drawings and other documents referring or relating to the design, development or manufacture to which reference is made in Part (a) of this request.

24. (a) All correspondence between defendant and Rockwell International or North American Rockwell (including correspondence between their respective attorneys) relating to:

- (1) solid-state electronic pinball machines.
- (2) this action or the patent in suit.

(b) All notes, memoranda, sketches, drawings and other documents referring or relating to the subject matters of the correspondence to which reference is made in Part (a) of this request.

II. That defendant produce and permit plaintiff to inspect and to photograph or test each of the following things:

1. Any and all solid-state electronic pinball machines made or sold by plaintiff or any one other than defendant.

2. Any and all prototypes, engineering models, design models or other physical models used, constructed or made by or for defendant during the design or development of each model of solid-state electronic pinball machines made or sold commercially by defendant.

3. A sample of each model of electronic pinball machines made or sold commercially by defendant.

As used herein, the term "document" includes but is not limited to any letter, intra-company communication, note, memorandum, report, record, minutes of meetings, patent, patent application, printed publication, article, instruction, work assignment, notebook, draft, worksheet, drawing, sketch, photograph, chart, advertisement, catalog, brochure, news release, trade publication, invoice, program and any other written, recorded or graphic material however produced or reproduced, and, in the absence of the original, a copy thereof and any copy bearing markings thereon not present in the original or other copy thereof.

If any document requested above in Part I is not produced or is withheld, under claim of privilege, supply the following information, separately for each document:

- a) author(s) and title(s), recipient(s) and title(s), type of document (letter, memorandum, etc.), general subject matter, date, and number of pages;
- b) name and job description of each individual to whom the contents of the document have heretofore been communicated;
- c) identification as in subparagraph (a), of each document transmitted with or attached to the document withheld;
- d) whether any business or non-legal matter is contained or discussed in the document, together with a description of any such subject matter;
- e) the paragraph(s) of the foregoing requests that require(s) production of the document.

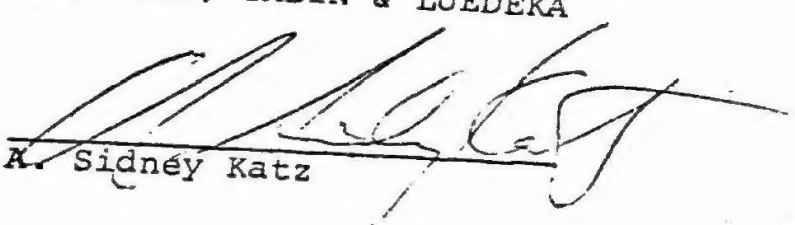
As used herein, the term "defendant" includes D. Gottlieb & Co., the predecessors thereof, all companies controlled by it, all companies controlling it, and all of its officers, employees, attorneys, counsels, agents, and representatives.

It is requested that the specified documents and things be produced for inspection and copying at the offices of Fitch, Even, Tabin & Luedeka, plaintiff's attorneys, at 135 South LaSalle Street, Chicago, Illinois, on or before January 18, 1979, at 10:00 a.m.

Dated: December 19, 1978

FITCH, EVEN, TABIN & LUEDEKA

by


A. Sidney Katz